

Before the
Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)	MM Docket No. 01-5
)	RM-10028
Amendment of Section 73.202(b))	RM-10107
Table of Allotments,)	
FM Broadcast Stations)	
)	
(Butler and Reynolds, Georgia))	

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To Assistant Chief, Media Bureau

AUG 12 2003

**SUPPLEMENT TO OPPOSITION TO
 PETITION FOR RECONSIDERATION
 AND STATEMENT FOR THE RECORD**

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

Fort Valley State University ("the University"), by its attorneys, and pursuant to Section 1.429 of the Commission's Rules, hereby respectfully files this supplement to its Opposition filed March 14, 2002, to the "Petition for Reconsideration" filed by H. David Hedrick ("Hedrick"). Hedrick sought reconsideration of the former Allocations Branch's *Report and Order, Butler and Reynolds, Georgia*, DA 02-204, released January 25, 2002 [67 Fed. Reg. 5956, published February 8, 2002] ("R&O"), that allotted FM Channel 245A to Reynolds, Georgia, reserving the allotment for noncommercial educational ("NCE") use. This updates the record in this proceeding 1

Background

Hedrick filed a petition that culminated in the Commission's *Notice of Proposed Rule Making ("NPRM")*, 16 FCC Rcd 736 (2001) that proposed to allot Channel 245A to Butler, Georgia, as its first local service. On March 5, 2001, the University timely filed a Counterproposal that requested the Commission to deny Hedrick's proposal, and instead,

1 A separate petition for leave to file this pleading is being filed today

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amend Section 73.202(b) of the Rules to add Channel *245A to Reynolds, Georgia, as its first local service, and reserve the channel for NCE use by appending an asterisk (*) to Channel 245A in the Table of Allotments under Reynolds, Georgia. The Allocations Branch adopted the University's Counterproposal. Hedrick then filed his Petition for Reconsideration.


At the time the University filed its Opposition, it stated that there was no licensed "over-the-air" broadcasting service of any type available to the students of the University. That situation changed on June 27, 2003, when the Commission granted an application for a new low power FM station to The Broadcasters Club, made of students that attend the University. The FCC's action became "final" on August 12, 2003, and this Supplement is being promptly filed to update the University's prior Opposition. In the *R&O*, at Para 3, the former Allocations Branch noted that "while the University's Broadcasting Club filed an application for a low power FM station, recent changes in the law by the U. S. Congress will result in rejection of that application." That situation changed and the FCC by *Public Notice*, DA 02-2178, released September 9, 2002, provided an opportunity for previously-rejected LPFM applications to make major amendments to specify a new channel. The window for such amendments opened October 28 and closed November 1, 2002, after the last date for filing responsive comments to Hedrick's petition. The Broadcasters Club duly amended its LPFM application which resulted in the grant of the LPFM construction permit and the assignment of call sign "WFVS-LP." Now that a construction permit has been granted and has become final, it is appropriate to supplement the record in this docket.

Although this changes the facts before the Commission, it does not constitute a change in core circumstances that would require any change in the result of the *R&O*. Although there is now a LPFM station for the use of the University's students, it is a 100-watt low power station that operates on a secondary basis. If it causes interference to any full power station, it can be forced to terminate operations. It is also not licensed to the University, but to a student club which operates under the University's auspices. Except for the allotment of Channel *245A to Reynolds, there is no full-power noncommercial educational channel available for use in the area. The Commission should not change its decision in the *R&O*.

WHEREFORE, the University respectfully urges the Commission to deny Hedrick's Petition for Reconsideration.

Respectfully submitted,

FORT VALLEY STATE UNIVERSITY

By 

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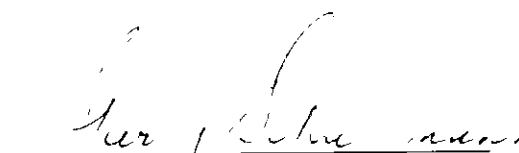
CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, a secretary in the law offices of Smithwick & Belendiuk, P.C., certify that on this 12th day of August, 2003, copies of the foregoing were mailed by First Class U.S. Mail, postage prepaid, to the following

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